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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.    | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------|------------------|
| 10/654,778  | 09/03/2003  | Paul T. Clegg        | T9613.CIP              | 5269             |
| 20451   | 7590        | 10/04/2005           | EXAMINER               |                  |
| GRANT R CLAYTON<br>CLAYTON HOWARTH & CANNON, PC<br>P O BOX 1909<br>SANDY, UT 84091-1909 |             |                      | FRIEDHOFFER, MICHAEL A |                  |
|   |             |                      | ART UNIT               | PAPER NUMBER     |
|   |             |                      | 2832                   |                  |

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

# Office Action Summary

Application No.

10/654,778

Applicant(s)

CLEGG ET AL.

Examiner

Michael A. Friedhofer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-146 is/are pending in the application.
- 4a) Of the above claim(s) 1-84 and 94-146 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 85-93 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/01/2004</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 85, 86, 88, 89, 90, 92, 93 are rejected under 35 U.S.C. 102(a) as being anticipated by Morgenthaler.

Morgenthaler discloses in figures 1-5d an apparatus for backlighting an object with varying colors of light including a power supply represented by the power on button; first and second plurality of individual light sources (col. 5, lines 34-42); a micro-processor (col. 8, lines 44-45) capable of controlling the intensity of each of the plurality of individual light sources whereby the color of light viewed on the object may be varied by instructing the micro-processor to alter the intensity of each of the individual lights; keys forming keypad 204 being the object, which is backlit and actuate switches controlling the electrical device or phone; and a light sensor 350 for determining the color of light viewed on the keys. The color of light provided by the second plurality of individual light sources may be dependent upon the status of the phone controlled by the switches wherein these are the guiding lights. The light sources are LEDs emit a variety of different colors of light, for example, red and green.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 85, 86, 88 are rejected under 35 U.S.C. 102(e) as being anticipated by Farage et al.

Farage et al discloses key 24 backlit by a plurality of individual light sources, which may be LEDs in which the intensity and/or color of the lights are dictated by processor 26.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 87 and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgenthaler in view of Muthu et al ('995).

Morgenthaler discloses all of the claimed limitations with the exception of the LEDs comprising red, green and blue LEDs and that the color is determined by the time of day.

Muthu et al teaches an object illuminated by red, green, and blue LEDs which is well known in the art (col. 1, lines 16-17) and controlled by a computer or processor for determining the intensity and color of light based upon specific products being displayed, or specific times of day (col. 1, line 66 – col. 2, line 5).

It would have been obvious to one of ordinary skill in the art to apply the teachings of Muthu et al to Morgenthaler to utilize red, green, and blue LEDs and to control the color based on the time of day because the use of this combination of lights is well known and basing the color on the time of day would not alter the control or structure of the switch or method of illumination.

***Election/Restrictions***

6. Claims 1-84 and 94-146 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 20, 2005.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Early et al, Higgins, Jr., Muthu et al ('661), Kan et al, Liebenow et al, and Knox et al teach various methods of controlling the illumination of objects and, in particular, switches.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael A. Friedhofer whose telephone number is 571-272-1992. The examiner can normally be reached on Mon-Fri 6:00 - 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael A. Friedhofer  
Primary Examiner  
Art Unit 2832

maf